



## Final Regulation Agency Background Document

<b>Agency name</b>	DEPT OF MEDICAL ASSISTANCE SERVICES
<b>Virginia Administrative Code (VAC) citation</b>	12 VAC 30-50, 30-60, and 30-130
<b>Regulation title</b>	Amount, Duration and Scope of Medical and Remedial Services, Standards Established and Methods Used to Assure High Quality of Care, and Amount, Duration and Scope of Selected Services.
<b>Action title</b>	Add Community-Based Residential Services as covered Medicaid services
<b>Document preparation date</b>	

This information is required for executive review ([www.townhall.state.va.us/dpbpages/apaintro.htm#execreview](http://www.townhall.state.va.us/dpbpages/apaintro.htm#execreview)) and the Virginia Registrar of Regulations ([legis.state.va.us/codecomm/register/regindex.htm](http://legis.state.va.us/codecomm/register/regindex.htm)), pursuant to the Virginia Administrative Process Act ([www.townhall.state.va.us/dpbpages/dpb\\_apa.htm](http://www.townhall.state.va.us/dpbpages/dpb_apa.htm)), Executive Orders 21 (2002) and 58 (1999) ([www.governor.state.va.us/Press\\_Policy/Executive\\_Orders/EOHome.html](http://www.governor.state.va.us/Press_Policy/Executive_Orders/EOHome.html)), and the *Virginia Register Form, Style, and Procedure Manual* ([http://legis.state.va.us/codecomm/register/download/styl8\\_95.rtf](http://legis.state.va.us/codecomm/register/download/styl8_95.rtf)).

### Brief summary

*In a short paragraph, please summarize all substantive changes that are being proposed in this regulatory action.*

The Virginia Appropriations Act of 2003, Item 325 QQQ, requires DMAS to promulgate regulations to implement coverage of new community-based, residential mental health services. A primary purpose of this action is to differentiate service intensity into two separate levels of service (A and B), and designates the highest intensity level of residential treatment programs as Level C. This regulation also describes provider requirements for the various levels of service and adds the requirement that a physician sign and date the plan of care.

### Statement of final agency action

*Please provide a statement of the final action taken by the agency including (1) the date the action was taken, (2) the name of the agency taking the action, and (3) the title of the regulation.*

I hereby approve the foregoing Agency Background Document with the attached amended State Plan pages titled Amount, Duration and Scope of Services (12 VAC 30-50-130), Standards Established and Methods Used to Assure High Quality of Care (12 VAC 30-60-61), and Amount, Duration and Scope of Selected Services (12 VAC 30-130- 860, - 870, - 880, and 12 VAC 30-130-890) and adopt the action stated therein. I certify that this final regulatory action has completed all the requirements of the Code of Virginia § 2.2-4012, of the Administrative Process Act and is full, true, and correctly dated.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Patrick W. Finnerty, Director  
Dept. of Medical Assistance Services

**Legal basis**

*Please identify the state and/or federal source of legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly bill and chapter numbers, if applicable, and (2) promulgating entity, i.e., the agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.*

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Services the authority to administer and amend the Plan for Medical Assistance. The Code of Virginia (1950) as amended, § 32.1-324, authorizes the Director of the Department of Medical Assistance Services (DMAS) to administer and amend the Plan for Medical Assistance according to the Board's requirements.

The Medicaid authority as established by § 1902 (a) of the Social Security Act [42 U.S.C. 1396a] provides governing authority for payments for services.

**Purpose**

*Please explain the need for the new or amended regulation by (1) detailing the specific reasons why this regulatory action is essential to protect the health, safety, or welfare of citizens, and (2) discussing the goals of the proposal and the problems the proposal is intended to solve.*

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This regulatory action provides for Medicaid coverage of new community-based residential services for children and adolescents. Until the promulgation of an emergency regulation covering these same services, these services were paid for with state and local funds through the Comprehensive Services Act (CSA). Providing Medicaid coverage will allow the state to obtain

federal financial participation for these same services and thereby significantly reduce the Commonwealth’s expenditures in the state CSA budget.

**Substance**

*Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. A more detailed discussion is required under the “All changes made in this regulatory action” section.*

The current regulations that are the subject of this action are: Amount, Duration and Scope of Services (12 VAC 30-50-130), Standards Established and Methods Used to Assure High Quality of Care (12 VAC 30-60-61), and Amount, Duration and Scope of Selected Services (12 VAC 30-130- 860, - 870, - 880, and 12 VAC 30-130-890). Each of these sections is being amended to implement the new covered services. Certain minor changes are made to existing regulations to distinguish between the requirements for current services and the new services. Because the reimbursement methodology for the new services is the same as that for the current services, no regulatory changes are required to initiate payment.

<b>Current section number</b>	<b>Current description</b>	<b>Proposed change and rationale</b>
12 VAC 30-50-130	Gives scope of skilled nursing services, EPSDT and family planning.	Adds to existing regulations the description of the new community-based residential services, providing for separate levels of service (A and B).
12 VAC 30- 60-61	Describes EPSDT and community mental health services for children.	Adds to existing regulations the utilization review requirements for the new community-based residential services, distinguishing between separate levels of service (A and B).
12 VAC 30-130-860	Describes residential treatment programs.	Designates highest intensity of Residential Treatment programs as Level C services. Adds language to further clarify service eligibility and service requirements. Adds language to clarify that a physician must date the plan of care.
12 VAC 30-130-870	Preauthorization for residential treatment.	Designates highest intensity of Residential Treatment as Level C services. Sets forth authorization, continued stay and discharge criteria for Levels A, B and C services, including written documentation requirements. Deletes outdated reimbursement language to

		<p>avoid confusion regarding reimbursement of Level C services. Adds new language regarding requirements for reimbursement for all levels of services.</p> <p><i>The only change from the emergency regulation was made in 12 VAC 30-130-870(G). This section permitted a DMAS contractor to provide authorization for services, however DMAS will be carrying out this function in-house. The language of –870(G) was changed to delete the reference to a DMAS contractor and to clarify that authorization for services is based upon the medical necessity criteria found in 12 VAC 30-50-130.</i></p>
12 VAC 30-130-880	Provider qualifications.	Lists licensure requirements for providers of Residential Treatment Services (Level C), Community-Based Services (Level A) and Therapeutic Behavioral Services (Level B).
12 VAC 30-130-890	Qualifications for plans of care and the review of plans of care.	<p>Adds requirement that a physician must sign and date the plan of care; requires the plan of care to include target dates for attainment of goals and objectives for Level C services.</p> <p>Adds initial plan of care requirements for Level A and Level B services.</p>
12 VAC 30-130-890	Qualifications for plans of care and the review of plans of care.	<p>Adds criteria for the Comprehensive Individual Plan of Care (CIPOC) for Levels A and B services.</p>

**Issues**

*Please identify the issues associated with the proposed regulatory action, including:*

- 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;*
- 2) the primary advantages and disadvantages to the agency or the Commonwealth; and*
- 3) other pertinent matters of interest to the regulated community, government officials, and the public.*

*If the regulatory action poses no disadvantages to the public or the Commonwealth, please so indicate.*

No disadvantages to the public have been identified in connection with this regulation. The agency projects no negative issues involved in implementing this regulatory change. The benefit to the Commonwealth and the public is that by adding these services to the Medicaid State Plan, federal financial participation can be obtained for services that are already being paid for with all state funding through the Comprehensive Services Act.

**Changes made since the proposed stage**

*Please describe all changes made to the text of the proposed regulation since the publication of the proposed stage. For the Registrar’s office, please put an asterisk next to any substantive changes.*

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There are no changes in these final regulations over those which were initially proposed for public comment.

**Public comment**

*Please summarize all comment received during the public comment period following the publication of the proposed stage, and provide the agency response. If no public comment was received, please so indicate.*

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No comments were received.

**All changes made in this regulatory action**

*Please detail all changes that are being proposed and the consequences of the proposed changes. Detail new provisions and/or all changes to existing sections.*

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These final adopted regulations are identical to the previous emergency and proposed regulations.

**Family impact**

*Please assess the impact of the proposed regulatory action on the institution of the family and family stability.*

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This regulation is expected to have a positive impact on the institution of the family and the stability of the family since it will provide greater financial resources for the Commonwealth to address those with mental health needs and enhance access to mental health services. It will not strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; it will not encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one’s spouse, or one’s children and/or elderly parents; nor will it strengthen or erode the marital commitment.